

March 28, 2006

STATEMENT BY THE COMMONWEALTH OF PUERTO RICO ATTORNEY GENERAL, MR. ROBERTO J. SÁNCHEZ RAMOS, TO THE CONGRESSIONAL BRIEFING AT THE UNITED STATES HOUSE OF REPRESENTATIVES REGARDING THE FEDERAL BUREAU OF INVESTIGATIONS' (FBI) DENIAL OF INFORMATION TO THE COMMONWEALTH OF PUERTO RICO DEPARTMENT OF JUSTICE IN THE COURSE OF STATE CRIMINAL INVESTIGATIONS.

Good Morning: Congressmen John Conyers, Jr., [GREETINGS]

First of all, I would like to thank all of you for taking the time to hold this briefing and aid us in our efforts to exercise our solemn duty to investigate any and all violations of the criminal laws.

As you are probably aware by now, a little over 6 months ago, on September 23, 2005, the Federal Bureau of Investigations (FBI) conducted an operation in Hormigueros, Puerto Rico, with the stated purpose of arresting a federal fugitive and citizen of Puerto Rico, Mr. Filiberto Ojeda Ríos. The operation lasted approximately 24 hours and culminated in the death of Mr. Ojeda Ríos.

During the early evening hours of that Friday, I was notified by the U.S. Attorney's Office in Puerto Rico that Mr. Ojeda Ríos was probably either dead or injured by gunfire, and I was asked to send local prosecutors to the perimeter of the scene. Later that night, however, federal agents at the scene asked these local prosecutors to leave, stating that no one would enter Mr. Ojeda Ríos's residence until the next day. In the end, it was not until the early afternoon of the following day that the FBI and the U.S. Attorney's Office certified that Mr. Ojeda Ríos had been killed in the gunfight and allowed the local authorities access to the scene.

On October 4, 2005, the Puerto Rico Department of Justice (PRDOJ) served the FBI with a subpoena requesting certain information, objects, and documents related to the aforementioned incident, as part of its legitimate investigation into the violent death of a Puerto Rican citizen on Puerto Rican soil. Initially, the FBI refused to provide any of the requested items. On that instance, the FBI asserted that all the requested evidence, including even the names of the FBI agents and officials involved in the intervention, fell within the scope of an alleged privilege. Specifically, on October 17, 2005, we received a letter from the United States Attorney for the Commonwealth of Puerto Rico, Mr. Humberto S. García, citing the USDOJ's housekeeping regulation in support of his refusal to disclose any of the information, documents and objects requested. In our letter dated October 19, 2005, we reiterated our request. The U.S. Attorney's Office's excessively-broad interpretation of the housekeeping regulation is incorrect – otherwise, in effect, that provision would serve as an absolute shield that would thwart any and all local inquiries into the acts of FBI personnel acting under color of law.

Subsequently, the FBI has stated its willingness to provide only some of the evidence requested, but not before the Office of the Inspector General's inquiry into this matter ends. However, there is no legal or policy reason why the PRDOJ investigation and the OIG inquiry cannot proceed simultaneously. In fact, the OIG has stated that it has no objection to PRDOJ's request of information, objects, and documents.

On November 2005, the FBI changed tack and finally agreed to deliver a limited subset of the objects requested. Regarding the remaining information, objects, and documents demanded, however, the FBI declined disclosure, again, based on the cited regulation and contending that further consideration of this matter must wait until the

OIG ends its inquiry. Most importantly, the FBI still refuses to produce the names of the FBI agents and officials involved in the incident, much less make them available for interviews. As you can imagine, it is very important for the PRDOJ's investigation to have the FBI's side of the story if we are to conduct a more complete and thorough investigation.

A similar situation has developed regarding another FBI intervention in Puerto Rico. On February 10, 2006, the FBI executed several search warrants in different locations around the island. During one of those interventions, several FBI agents allegedly used excessive force (including the use of pepper spray) against several members of the Puerto Rican press. This incident has been the subject of various formal complaints filed by these members of the press. Naturally, the PRDOJ has begun an investigation. As part of said investigation, two subpoenas were issued seeking, among other things, the identity of two FBI agents who were photographed by the journalists during the incident. Just as in the Ojeda Ríos matter, though, the FBI has refused to provide even the names of said individuals. Unlike in the previous incident, however, the U.S. Attorney's Office chose this time around to go so far as to file a motion in federal court to challenge the subpoenas. The U.S. Attorney's Office's position is now clear: it will not cooperate in the foreseeable future with the PRDOJ's investigations. As you are aware, this has resulted in the Commonwealth's filing of two civil actions in federal court seeking to vindicate the Commonwealth's sovereign power to investigate possible violations of its criminal laws.

I honestly believe that the swift resolution of this controversy between the PRDOJ and the USDOJ is in the best interest of all parties involved. Only through open and

frank communication between Commonwealth and federal authorities can we hope to best serve our common interest in the protection of our citizens. The relationship of trust that must exist between Commonwealth and federal law enforcement agencies is too important to succumb to this type of misunderstanding. I cannot stress enough that the PRDOJ has no interest whatsoever in hampering the FBI's and the USDOJ's efforts to combat terrorist or any other type of criminal activity. We only ask that the USDOJ and the FBI do not hinder our efforts to ensure that no Commonwealth criminal laws are violated either.

I would like to thank you very much for your time and your interest in this matter. An I hope that you can assist us, in any way you can, to achieve a mutual understanding with the federal law enforcement authorities, so that we may bring our investigations to an appropriate conclusion.